WESTERN CENTER ON LAW & POVERTY

Health Care Practice Tip
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Guiding Covered California Consumers through an Especially Challenging Open Enrollment/Renewal Period

Attacks on the Affordable Care Act (ACA) have now moved to administrative action, and we will see the effects first and strongest in Covered CA. This year's Covered California Open Enrollment and renewal period ("OE5" in the lingo) is a minefield for consumers due to the federal administration's assault on the ACA. While Covered California's independent budget shields our state's Exchange from some of the federal sabotage - such as federal decreases in marketing and enrollment assistance, the shortened federal open enrollment period, and planned maintenance outages - California still faces major challenges. This practice tip gives advice about the three biggest challenges on the horizons for consumers: open enrollment dates, lack of guarantee that cost sharing reduction payments will continue, and large carriers leaving some regions.

1. Open Enrollment in California is still until January 31, 2018.
While the shorter federal open enrollment period has been in the press, open enrollment for plan year 2018 remains the same in California: **November 1, 2017 - January 31, 2018.** Persons who want their plan to start on January 1, 2018 must sign up by **December 15, 2017.**

Note: California has passed new legislation (AB 156) to comply with recent federal marketplace stabilization regulations that goes into effect for the next open enrollment period. California took the federal option of combining a 45-day open enrollment period with a 45-day special enrollment period for a seamless "annual enrollment period" that will run from October 15 - January 15, starting with the open enrollment for **plan year 2019.**

2. Silver premiums will be higher to offset the cost of federal cost sharing reduction (CSR) payments.
CSRs help lower-income Covered California enrollees pay less when they use their care by reducing co-pays and deductibles. Because the Trump administration has now refused to pay the federal CSRs, Covered California has required the plans to account for this lost payment in their Silver-level premium rates.[1] Plans are required by Silver 73, Silver 87, and Silver 94 contracts to keep the cost-sharing, including co-payments and deductibles, at the cheaper CSR level regardless of whether they are reimbursed by the federal government or not. In other words, if someone eligible for a Silver 94 plan with its $5 co-pay for office visits enrolls in that plan, the plan cannot suddenly charge the consumer a higher co-pay for an office visit just because the plan did not receive a federal payment. To prepare for this problem, plans will raise all Silver-level premiums so that they will not be losing money on their CSR plans even if the federal government won't pay for them.

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[1] Covered California's press release on the issue is here.

Consumers who are eligible for advanced premium tax credits (APTCs) should not be affected by the higher premium. For persons receiving APTCs, as the second-lowest cost Silver premium rises, so will their APTCs. Consumers can also use these increased subsidies to purchase plans in other metal tiers. For persons not eligible for APTCs, Covered California has required all carriers to sell a plan off the Exchange that is nearly identical to the Covered California Silver plans but without the additional premium cost.

Consumers facing higher silver premiums may have options that are not obvious.
Advise your clients and consumers to shop around, but remember that where to shop depends on whether they get subsidies.

- Consumers enrolled in more generous cost-sharing reduction plans, such as Silver 94 or Silver 87 plans, staying in that plan is likely the best option as the cost of the increased premium will be offset by higher APTCs.
- Consumers in Silver 73 or regular Silver plans might also want to look at Gold plans as in many regions, there is at least one Gold plan that is cheaper than a Silver plan and the Gold plans have more generous benefits, like no deductible and lower co-pays.
- Consumers who do not get APTCs that offset the higher Silver premiums, moving to an off-Exchange plan purchased directly from the carrier will be cheaper. These consumers should be advised that they cannot get premium tax credits while in an off-Exchange plan, even if their annual income would make them eligible. They should go to their carrier's website or get help from a certified enrollment counselor or agent.

3. Some consumers will have to switch plans because their 2017 plan is leaving their region.
Over 150,000 consumers will be affected by Anthem leaving 16 regions and Health Net will be leaving 3 regions and removing only its HMO product for an additional region. This means consumers who had these plans will need to shop for a new plan. To make matters more confusing, the changes in Anthem's plans in the remaining regions[2] are significant enough to trigger the requirement that termination notices be sent to consumers even though very similar Anthem products are still available in those regions. Blue Shield and Oscar are both expanding into additional regions. 2018 plan offerings are available here. Covered California has published this FAQ to help consumers who have to pick new plans.

Consumers whose plans are no longer available will be defaulted into other plans if they don't choose a new one.
New Covered California regulations approved at the October 5 Board Meeting allow Covered California to move consumers whose plan is no longer available into another carrier's plan in the same metal tier.[3] For consumers who are passively renewed into a different Covered California plan, they do not actually have coverage until they make that first payment, known as the binder payment.

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[2] Region 1, northern counties; Region 7, Santa Clara county, and Region 10, San Joaquin, Stanislaus, Merced, Mariposa, and Tulare

[3] The finalized regulations that were approved should be posted in the next day or so at http://hbex.coveredca.com/regulations/ or on the Office of Administrative Law website.

Covered California now has a provider directory in CalHEERS to help consumers shopping for a new plan.
When shopping for a new plan, CalHEERS allows consumers to list several providers or hospitals to see which plans are contracted with them through its new provider directory tool. Consumers should also call their provider to double check which Covered California plans the providers accept. While many consumers now have new continuity of care protections (see below), choosing a plan that contracts with the provider is a more secure way of ensuring continued access to the provider.

Consumers who were forced to pick a new plan have new continuity of care protections.
SB 133 was signed on October 5 extending continuity of care protections to consumers who are forced to pick a new plan due to their existing plan leaving the region. As it goes into effect on January 1, 2018, the protections will be in place for those persons moving from Anthem or Health Net in 2017 to another plan in 2018.

Continuity of care allows consumers with certain conditions to pay in-network charges for an out-of-network former provider as long as that provider agrees to accept payment from the new plan for their treatment. Those conditions and timeframes are:

- **Acute condition –** care will be provided as long as the condition lasts;
- **Serious chronic condition –** care will be provided for not more than 12 months until the patient can transfer care to another doctor;
- **Pregnancy –** care will be provided during pregnancy and three months after delivery (post-partum period);
- **Terminal illness –** care will be provided as long as the person lives;
- **Child under 3 years old –** care will be provided for up to 12 months; and
- **Already scheduled surgery or procedure –** care is provided as long as it was scheduled to occur within 180 days.

Should you have further questions on these changes to Covered California, please contact Jen Flory atjflory@wclp.org or 916-282-5141.